

1 **UNITED STATES DISTRICT COURT**  
2 **NORTHERN DISTRICT OF CALIFORNIA**

3 NICHOLAS KIS, on behalf of himself and  
4 all others similarly situated,

5 Plaintiff,

6 v.

7 COGNISM INC.,

8 Defendant.

CASE NO.: 4:22-cv-05322-JST

**DECLARATION OF JAMES ISILAY**

9 I, James Isilay, hereby declare, pursuant to 28 U.S.C § 1746, as follows:

10 1. I am the Founder and Chief Executive Officer of Cognism Ltd., the parent  
11 company of Defendant Cognism Inc. ("Cognism").

12 **COGNISM COMPANY BACKGROUND**

13 2. Cognism is a sales lead generation platform that helps companies connect with  
14 potential customers.

15 3. To facilitate such connections, Cognism collects information about business  
16 professionals, such as their employer, job title, office location, and contact information.

17 4. The first layer of data Cognism collects is from third-party data brokers, such as  
18 Pipl and CoreSignal, who sell "base" information (*e.g.*, name, title) about business professionals  
19 to Cognism, often collected from a variety of public sources (*e.g.*, website directories).

20 5. The vast majority of information on Cognism's platform is collected through this  
21 process, which is a standard industry practice.

22 6. Cognism then confirms the integrity of the information, for example, by  
23 monitoring publicly available information from corporate websites and calling a listed phone  
24 number to confirm the identity of the recipient.

25 7. Cognism also performs other checks to ensure the integrity of the data, including  
26 verifying that only business contact information (rather than personal contact information) is  
27 being collected and flagging any individuals who are on any government-run "Do Not Call"  
28 registries.

1 **COGNISM SIGNATURES**

2 8. For a brief period of time in the summer of 2022, Cognism experimented with  
3 additional data collection through the Cognism “Signatures” product, whereby Cognism offered  
4 certain customers access to an email signature standardization tool in exchange for access to the  
5 customer’s stored email communications.

6 9. The Signatures product allowed Cognism to capture, with the customer’s consent,  
7 the email signature blocks of individuals with whom the customer’s employees were  
8 communicating and then added any new contact information (*e.g.*, company name, company  
9 address, or business telephone) to an existing “base” profile.

10 10. The email signature blocks were collected from an employee’s inbox data once  
11 received by the employee and were not intercepted while the communication was in transit to the  
12 employee.

13 11. The substantive contents of the email messages themselves were not collected,  
14 and no new profiles were generated as a result of this process; rather, existing profiles were  
15 simply supplemented.

16 12. The Cognism Signature Terms and Conditions, which were publicly available on  
17 Cognism’s website, explained:

18 In return for the provision of the service by Cognism, under these Standard  
19 Terms, the Customer permits Cognism and members of its group to: [1] use staff  
20 business contact information (of those staff who make use of personalised email  
21 signatures) for marketing purposes, including B2B direct marketing; and  
22 [2] access the staff’s email inbox content, specifically the information in email  
23 signatures of received emails and IP addresses. Third party marketers may also  
24 access this contact information for use in their marketing campaigns.

25 13. The Terms and Conditions also recognized that the “Customer hereby grants to the  
26 Cognism Group a worldwide, royalty-free, perpetual, irrevocable, non-exclusive, transferable  
27 and sublicensable license to access the Signature Data and Inbox Data and to use this at the  
28 Cognism Group’s sole discretion (including to copy, distribute, disclose, assign, sell, rent license,  
publish, and/or display)” and that the “Customer acknowledges, understands, authorises and  
agrees that during the Term the Cognism Group will access Inbox Data and use natural language

1 processing software to recognise email signatures and extract the contact data contained within  
2 to use this for its own purposes.”

3 14. The Terms and Conditions defined “Inbox Data” as “data and content in the  
4 Platform Users’ email accounts including email signatures of all received emails and IP  
5 addresses.”

6 15. None of the information contained in Cognism’s platform relating to Plaintiff  
7 Nicholas Kis was collected from the Cognism Signatures product.

8 16. Cognism never intercepted or read Mr. Kis’ emails.

9 17. Cognism never collected any information relating to Mr. Kis from its subscribers’  
10 emails.

11 **COGNISM PLATFORM**

12 18. Cognism’s aggregated database of verified information about business  
13 professionals is available through Cognism’s platform, which allows an individual to search by  
14 various criteria to identify potential sales leads.

15 19. For example, the platform allows for a sales representative to search for business  
16 professionals in a given geography with a certain title and allows the user to download a list of  
17 potential sales targets.

18 20. There is no “limited access” or “limited use” version of the platform; when a user  
19 gets access to Cognism’s platform, they have access to the entire platform and all of its  
20 information.

21 21. The Cognism platform has no teaser profiles or landing pages.

22 22. In other words, there is no standalone webpage containing an individual’s identity  
23 with a solicitation to buy anything—not a subscription to Cognism’s platform, not any particular  
24 individual’s contact information, or otherwise.

25 23. Cognism also does not engage in search engine optimization (“SEO”) or indexing  
26 practices such that an individual’s information on Cognism would appear in a search engine  
27 search result.  
28

1           24.     The individuals whose names and likenesses appear on Cognism's website are  
2 company employees who consented to use of their identities for marketing purposes, or are  
3 fictitious persons created for the website.

4           25.     Mr. Kis' name and information have never appeared on Cognism's public-facing  
5 website at [www.cognism.com](http://www.cognism.com).

6           26.     Cognism does not use Mr. Kis' information in connection with any advertising or  
7 promotional material.

8           27.     Cognism allows potential customers the opportunity to try its platform for free.

9           28.     Such potential customers first interface with a Cognism sales representative to  
10 receive a demonstration of the platform and to receive temporary log-in credentials.

11          29.     The temporary log-in credentials permit the trial user to use the full platform for a  
12 limited period of time or for a limited number of contact information downloads.

13          30.     No information about any particular individual is held back during the trial, and  
14 no information about any person is used to advertise Cognism's platform.

15     **KASPR**

16          31.     One additional way that information about Mr. Kis can be accessed is through the  
17 Kaspr plug-in.

18          32.     Kaspr is a plug-in or extension to an internet browser that allows an individual  
19 searching on the LinkedIn platform to view more information about that individual.

20          33.     To use Kaspr, an individual must first register with Kaspr online and download  
21 the browser plug-in.

22          34.     Once the user signs up and downloads the plug-in, the next time the user visits a  
23 LinkedIn profile, he or she can click on the in-browser Kaspr icon to reveal whether any  
24 additional information is available for purchase.

25          35.     Kaspr does not have any specific "landing pages" for specific individuals;  
26 everything is viewed from within the LinkedIn profile itself.

27  
28

1           36. Kaspr has no search functionality, and all searches for individuals must be  
2 performed within LinkedIn itself—Kaspr is merely a layer on top of the information that a  
3 LinkedIn profile provides.

4           37. If a user does not have a LinkedIn profile, Kaspr will not work.

5 **PLAINTIFF NICHOLAS KIS**

6           38. Information concerning Mr. Kis was obtained by Cognism from third party data  
7 sellers Pipl and CoreSignal.

8           39. That information is contained within the Cognism platform, and information  
9 about Mr. Kis is also available through the Kaspr plug-in when navigating to Mr. Kis' LinkedIn  
10 profile.

11           40. Mr. Kis was twice notified that information about him was being included in the  
12 Cognism platform, once on January 14, 2021, and again on November 15, 2021.

13           41. Cognism notified Mr. Kis as part of its standard process to notify individuals that  
14 Cognism held his publicly available business information and informed him of the purposes for  
15 which Cognism intended to use the data pursuant to the General Data Protection Regulation  
16 ("GDPR").

17           42. Both times, Mr. Kis was given the opportunity to "opt out" and have his  
18 information removed, and neither time did he make such an election.

19           43. The only way Mr. Kis' information could possibly appear to any user of  
20 Cognism's platform would be when the platform itself was actually used.

21           44. A Cognism user could conduct a search for Mr. Kis specifically by his name, or  
22 the user could conduct a search with certain search criteria that would then list Mr. Kis if he fit  
23 that criteria.

24           45. Mr. Kis' name and information were never listed on Cognism's public-facing  
25 website, www.cognism.com, and never used in any promotional material or advertisement.

26           46. Cognism maintains records that allow it to see if an individual's information has  
27 been accessed, and how many times.  
28

1           47.     Following the filing of this action, Cognism checked to see the frequency of  
2 access to information regarding Mr. Kis.

3           48.     Mr. Kis has been listed only once in response to a customer inquiry. That  
4 “customer” was Benjamin Osborn, one of Mr. Kis’ attorneys in this case. No other user of  
5 Cognism’s platform has ever viewed Plaintiff’s information and no user has ever paid for doing  
6 so.

7           49.     Mr. Osborn gained access to Cognism’s platform by representing to a Cognism  
8 sales representative that he often had “case ideas” where he thought someone violated the law,  
9 but needed a tool to help him “come up with people who’d bring suit” who, for example, worked  
10 for a particular employer or who lived in a particular geography. Mr. Osborn suggested that  
11 Cognism’s platform might facilitate that effort.

12           50.     Based on Mr. Osborn’s representations, he was granted access to Cognism’s  
13 platform from which he then accessed information relating to Mr. Kis.

14           51.     No information relating to Mr. Kis has ever been accessed from Cognism’s  
15 platform in response to any search other than the one performed by Mr. Osborn.

16  
17 I declare under penalty of perjury under the laws of the United States of America that the  
18 foregoing is true and correct.

19  
20 Executed in London, United Kingdom, on 12/12/2022.

21                   DocuSigned by:

22                   James Isilay

23                   21F9F3A1F8A54D6

24                   JAMES ISILAY  
25                   CHIEF EXECUTIVE OFFICER